

Federal Information Quality Act (44 USC Sections 3501*et seq* (P.L. 106–554 Section 515, FY 2001 Treasury and General Government Appropriations Act))

Sec. 3501. - Purposes

The purposes of this subchapter are to -

- (1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;
- (2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;
- (3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;
- (4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;
- (5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;
- (6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;
- (7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;
- (8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to -
 - (A) privacy and confidentiality, including section 552a of title 5;
 - (B) security of information, including the Computer Security Act of 1987 (Public Law 100-235); and
 - (C) access to information, including section 552 of title 5;
- (9) ensure the integrity, quality, and utility of the Federal statistical system;
- (10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and
- (11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this subchapter

Sec. 3502. - Definitions

As used in this subchapter -

- (1) the term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include -
 - (A) the General Accounting Office;
 - (B) Federal Election Commission;
 - (C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

- (D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;
- (2) the term "burden" means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for -
- (A) reviewing instructions;
 - (B) acquiring, installing, and utilizing technology and systems;
 - (C) adjusting the existing ways to comply with any previously applicable instructions and requirements;
 - (D) searching data sources;
 - (E) completing and reviewing the collection of information; and
 - (F) transmitting, or otherwise disclosing the information;
- (3) the term "collection of information" -
- (A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either -
 - (i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or
 - (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and
 - (B) shall not include a collection of information described under section 3518(c)(1);
- (4) the term "Director" means the Director of the Office of Management and Budget;
- (5) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;
- (6) the term "information resources" means information and related resources, such as personnel, equipment, funds, and information technology;
- (7) the term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;
- (8) the term "information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;
- (9) the term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401) but does not include national security systems as defined in section 5142 of that Act (40 U.S.C. 1452);
- (10) the term "person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision;
- (11) the term "practical utility" means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;
- (12) the term "public information" means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public;
- (13) the term "recordkeeping requirement" means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to -

- (A) retain such records;
 - (B) notify third parties, the Federal Government, or the public of the existence of such records;
 - (C) disclose such records to third parties, the Federal Government, or the public; or
 - (D) report to third parties, the Federal Government, or the public regarding such records;
- and

(14) the term "penalty" includes the imposition by an agency or court of a fine or other punishment; a judgment for monetary damages or equitable relief; or the revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit

Sec. 3503. - Office of Information and Regulatory Affairs

(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this subchapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy

Sec. 3504. - Authority and functions of Director

(a)

(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall -

- (A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and
- (B) provide direction and oversee -
 - (i) the review and approval of the collection of information and the reduction of the information collection burden;
 - (ii) agency dissemination of and public access to information;
 - (iii) statistical activities;
 - (iv) records management activities;
 - (v) privacy, confidentiality, security, disclosure, and sharing of information; and
 - (vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2) The authority of the Director under this subchapter shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall -

- (1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;
- (2) foster greater sharing, dissemination, and access to public information, including through -
 - (A) the use of the Government Information Locator Service; and
 - (B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;
- (3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;
- (4) oversee the development and implementation of best practices in information resources management, including training; and

- (5) oversee agency integration of program and management functions with information resources management functions.
- (c) With respect to the collection of information and the control of paperwork, the Director shall -
- (1) review and approve proposed agency collections of information;
 - (2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;
 - (3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;
 - (4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and
 - (5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.
- (d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to -
- (1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and
 - (2) promote public access to public information and fulfill the purposes of this subchapter, including through the effective use of information technology.
- (e) With respect to statistical policy and coordination, the Director shall -
- (1) coordinate the activities of the Federal statistical system to ensure -
 - (A) the efficiency and effectiveness of the system; and
 - (B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;
 - (2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;
 - (3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning -
 - (A) statistical collection procedures and methods;
 - (B) statistical data classification;
 - (C) statistical information presentation and dissemination;
 - (D) timely release of statistical data; and
 - (E) such statistical data sources as may be required for the administration of Federal programs;
 - (4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;
 - (5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;
 - (6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;
 - (7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;
 - (8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall -
 - (A) be headed by the chief statistician; and
 - (B) consist of -
 - (i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and
(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which -

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

(f) With respect to records management, the Director shall -

(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this subchapter;

(2) review compliance by agencies with -

(A) the requirements of chapters 29, 31, and 33 of this title; and

(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall -

(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

(2) oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), ^[1] and related information management laws; and

(3) require Federal agencies, consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), ^[1] to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h) With respect to Federal information technology, the Director shall -

(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services -

(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

(2) monitor the effectiveness of, and compliance with, directives issued under division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.) and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757);

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means -

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

- (B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and
- (5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public

Sec. 3505. - Assignment of tasks and deadlines

(a)

In carrying out the functions under this subchapter, the Director shall -

(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to -

(A) reduce information collection burdens imposed on the public that -

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this subchapter, particularly with regard to minimizing the Federal information collection burden; and

(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include -

(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

(B) plans for -

(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this subchapter; and

(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may, after consultation with the agency head, waive the application of any administrative directive issued by an agency with which the project is conducted, including any directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver

Sec. 3506. - Federal agency responsibilities

(a)

(1) The head of each agency shall be responsible for -

(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

(B) complying with the requirements of this subchapter and related policies established by the Director.

(2)

(A) Except as provided under subparagraph (B), the head of each agency shall designate a Chief Information Officer who shall report directly to such agency head to carry out the responsibilities of the agency under this subchapter.

(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate Chief Information Officers who shall report directly to such Secretary to carry out the responsibilities of the department under this subchapter. If more than one Chief Information Officer is designated, the respective duties of the Chief Information Officers shall be clearly delineated.

(3) The Chief Information Officer designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this subchapter, including the reduction of information collection burdens on the public. The Chief Information Officer and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this subchapter.

(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the Chief Information Officer designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

(b) With respect to general information resources management, each agency shall -

(1) manage information resources to -

(A) reduce information collection burdens on the public;

(B) increase program efficiency and effectiveness; and

(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

(3) develop and maintain an ongoing process to -

(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this subchapter; and

(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

(c) With respect to the collection of information and the control of paperwork, each agency shall -

(1) establish a process within the office headed by the Chief Information Officer designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this subchapter, to -

(A) review each collection of information before submission to the Director for review under this subchapter, including -

(i) an evaluation of the need for the collection of information;

(ii) a functional description of the information to be collected;

(iii) a plan for the collection of the information;

- (iv) a specific, objectively supported estimate of burden;
 - (v) a test of the collection of information through a pilot program, if appropriate;
 - and
 - (vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;
 - (B) ensure that each information collection -
 - (i) is inventoried, displays a control number and, if appropriate, an expiration date;
 - (ii) indicates the collection is in accordance with the clearance requirements of section 3507; and
 - (iii) informs the person receiving the collection of information of -
 - (I) the reasons the information is being collected;
 - (II) the way such information is to be used;
 - (III) an estimate, to the extent practicable, of the burden of the collection;
 - (IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and
 - (V) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number; and
 - (C) assess the information collection burden of proposed legislation affecting the agency;
- (2)
- (A) except as provided under subparagraph (B) or section 3507(j), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to -
 - (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
 - (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
 - (iii) enhance the quality, utility, and clarity of the information to be collected; and
 - (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and
 - (B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A)(i) through (iv); and
- (3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507 -
- (A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;
 - (B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;
 - (C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as -
 - (i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;
 - (ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

- (iii) an exemption from coverage of the collection of information, or any part thereof;
 - (D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;
 - (E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;
 - (F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;
 - (G) contains the statement required under paragraph (1)(B)(iii);
 - (H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;
 - (I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and
 - (J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.
- (d) With respect to information dissemination, each agency shall -
 - (1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through -
 - (A) encouraging a diversity of public and private sources for information based on government public information;
 - (B) in cases in which the agency provides public information maintained in electronic format, providing timely and equitable access to the underlying data (in whole or in part); and
 - (C) agency dissemination of public information in an efficient, effective, and economical manner;
 - (2) regularly solicit and consider public input on the agency's information dissemination activities;
 - (3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and
 - (4) not, except where specifically authorized by statute -
 - (A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;
 - (B) restrict or regulate the use, resale, or redissemination of public information by the public;
 - (C) charge fees or royalties for resale or redissemination of public information; or
 - (D) establish user fees for public information that exceed the cost of dissemination.
- (e) With respect to statistical policy and coordination, each agency shall -
 - (1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;
 - (2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;
 - (3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;
 - (4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;
 - (5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and
 - (6) make data available to statistical agencies and readily accessible to the public.

(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

(g) With respect to privacy and security, each agency shall -

- (1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;
- (2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), ^[1] and related information management laws; and
- (3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), ^[1] identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h) With respect to Federal information technology, each agency shall -

- (1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;
- (2) assume responsibility and accountability for information technology investments;
- (3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;
- (4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and
- (5) assume responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is -
 - (A) integrated with budget, financial, and program management decisions; and
 - (B) used to select, control, and evaluate the results of major information systems initiatives

Sec. 3507. - Public information collection activities; submission to Director; approval and delegation

(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information -

(1) the agency has -

- (A) conducted the review established under section 3506(c)(1);
- (B) evaluated the public comments received under section 3506(c)(2);
- (C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and
- (D) published a notice in the Federal Register -
 - (i) stating that the agency has made such submission; and
 - (ii) setting forth -
 - (I) a title for the collection of information;
 - (II) a summary of the collection of information;
 - (III) a brief description of the need for the information and the proposed use of the information;
 - (IV) a description of the likely respondents and proposed frequency of response to the collection of information;
 - (V) an estimate of the burden that shall result from the collection of information; and
 - (VI) notice that comments may be submitted to the agency and Director;

- (2)** the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and
- (3)** the agency has obtained from the Director a control number to be displayed upon the collection of information.

(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

(c)

(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2) -

- (A)** the approval may be inferred;
- (B)** a control number shall be assigned without further delay; and
- (C)** the agency may collect the information for not more than 1 year.

(d)

(1) For any proposed collection of information contained in a proposed rule -

(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

(2) When a final rule is published in the Federal Register, the agency shall explain -

(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

(B) the reasons such comments were rejected.

(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion -

(A) from disapproving any collection of information which was not specifically required by an agency rule;

(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

(D) from disapproving any collection of information contained in a final rule, if -

(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

(e)

(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

(3) This subsection shall not require the disclosure of -

(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

(B) any communication relating to a collection of information which is not approved under this subchapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

(f)

(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void -

(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

(g) The Director may not approve a collection of information for a period in excess of 3 years.

(h)

(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall -

(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall -

(A) publish an explanation thereof in the Federal Register; and

(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this subchapter.

(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this subchapter.

(i)

(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

(j)

(1) The agency head may request the Director to authorize a collection of information, if an agency head determines that -

(A) a collection of information -

(i) is needed prior to the expiration of time periods established under this subchapter; and

(ii) is essential to the mission of the agency; and

(B) the agency cannot reasonably comply with the provisions of this subchapter because -

(i) public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) an unanticipated event has occurred; or

(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this subchapter for a maximum of 180 days after the date on which the Director received the request to authorize such collection

Sec. 3508. - Determination of necessity for information; hearing

Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information

Sec. 3509. - Designation of central collection agency

The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information

for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this subchapter

Sec. 3510. - Cooperation of agencies in making information available

(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

(b)

(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency

Sec. 3511. - Establishment and operation of Government Information Locator Service

(a) In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall -

(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the "Service"), which shall identify the major information systems, holdings, and dissemination products of each agency;

(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

(4) consider public access and other user needs in the establishment and operation of the Service;

(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 U.S.C. 431 et seq.)

Sec. 3512. - Public protection

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if -

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter; or

(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto

Sec. 3513. - Director review of agency activities; reporting; agency response

(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel

Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to -

- (1) be taken to address information resources management problems identified in the report; and
- (2) improve agency performance and the accomplishment of agency missions

Sec. 3514. - Responsiveness to Congress

(a)

(1) The Director shall -

- (A) keep the Congress and congressional committees fully and currently informed of the major activities under this subchapter; and
- (B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

(2) The Director shall include in any such report a description of the extent to which agencies have

-

- (A) reduced information collection burdens on the public, including -
 - (i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;
 - (ii) a list of all violations of this subchapter and of any rules, guidelines, policies, and procedures issued pursuant to this subchapter;
 - (iii) a list of any increase in the collection of information burden, including the authority for each such collection; and
 - (iv) a list of agencies that in the preceding year did not reduce information collection burdens in accordance with section 3505(a)(1), a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;
- (B) improved the quality and utility of statistical information;
- (C) improved public access to Government information; and
- (D) improved program performance and the accomplishment of agency missions through information resources management.

(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government

Sec. 3515. - Administrative powers

Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this subchapter

Sec. 3516. - Rules and regulations

The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this subchapter

Sec. 3517. - Consultation with other agencies and the public

(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this subchapter, a person shall maintain, provide, or disclose the information

to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information -

(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

(2) take appropriate remedial action, if necessary

Sec. 3518. - Effect on existing laws and regulations

(a) Except as otherwise provided in this subchapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this subchapter.

(b) Nothing in this subchapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

(c)

(1) Except as provided in paragraph (2), this subchapter shall not apply to the collection of information -

(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of -

(i) a civil action to which the United States or any official or agency thereof is a party; or

(ii) an administrative action or investigation involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

(D) during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

(2) This subchapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

(d) Nothing in this subchapter shall be interpreted as increasing or decreasing the authority conferred by section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and the Computer Security Act of 1987 (40 U.S.C. 759 note) ^[1] on the Secretary of Commerce or the Director of the Office of Management and Budget.

(e) Nothing in this subchapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws

Sec. 3519. - Access to information

Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office

Sec. 3520. - Authorization of appropriations

There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this subchapter, and for no other purpose, \$8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, and 2001

Sec. 3531. - Purposes

The purposes of this subchapter are the following:

- (1) To provide a comprehensive framework for establishing and ensuring the effectiveness of controls over information resources that support Federal operations and assets.
- (2)
 - (A) To recognize the highly networked nature of the Federal computing environment including the need for Federal Government interoperability and, in the implementation of improved security management measures, assure that opportunities for interoperability are not adversely affected.
 - (B) To provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities.
- (3) To provide for development and maintenance of minimum controls required to protect Federal information and information systems.
- (4) To provide a mechanism for improved oversight of Federal agency information security programs

Sec. 3532. - Definitions

(a) Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

(b) In this subchapter:

- (1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).
- (2) The term "mission critical system" means any telecommunications or information system used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, that -
 - (A) is defined as a national security system under section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452);
 - (B) is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be classified in the interest of national defense or foreign policy; or
 - (C) processes any information, the loss, misuse, disclosure, or unauthorized access to or modification of, would have a debilitating impact on the mission of an agency

Sec. 3533. - Authority and functions of the Director

(a)

- (1) The Director shall establish governmentwide policies for the management of programs that -
 - (A) support the cost-effective security of Federal information systems by promoting security as an integral component of each agency's business operations; and
 - (B) include information technology architectures as defined under section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425).
- (2) Policies under this subsection shall -
 - (A) be founded on a continuing risk management cycle that recognizes the need to -
 - (i) identify, assess, and understand risk; and
 - (ii) determine security needs commensurate with the level of risk;
 - (B) implement controls that adequately address the risk;
 - (C) promote continuing awareness of information security risk; and

(D) continually monitor and evaluate policy and control effectiveness of information security practices.

(b) The authority under subsection (a) includes the authority to -

(1) oversee and develop policies, principles, standards, and guidelines for the handling of Federal information and information resources to improve the efficiency and effectiveness of governmental operations, including principles, policies, and guidelines for the implementation of agency responsibilities under applicable law for ensuring the privacy, confidentiality, and security of Federal information;

(2) consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100-235; 101 Stat. 1729), require Federal agencies to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency;

(3) direct the heads of agencies to -

(A) identify, use, and share best security practices;

(B) develop an agencywide information security plan;

(C) incorporate information security principles and practices throughout the life cycles of the agency's information systems; and

(D) ensure that the agency's information security plan is practiced throughout all life cycles of the agency's information systems;

(4) oversee the development and implementation of standards and guidelines relating to security controls for Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3);

(5) oversee and coordinate compliance with this section in a manner consistent with -

(A) sections 552 and 552a of title 5;

(B) sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4);

(C) section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

(D) sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100-235; 101 Stat. 1729); and

(E) related information management laws; and

(6) take any authorized action under section 5113(b)(5) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413(b)(5)) that the Director considers appropriate, including any action involving the budgetary process or appropriations management process, to enforce accountability of the head of an agency for information resources management, including the requirements of this subchapter, and for the investments made by the agency in information technology, including -

(A) recommending a reduction or an increase in any amount for information resources that the head of the agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

(B) reducing or otherwise adjusting apportionments and reappportionments of appropriations for information resources; and

(C) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

(c) The authorities of the Director under this section (other than the authority described in subsection (b)(6)) -

(1) shall be delegated to the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2);

(2) shall be delegated to the Secretary of Defense in the case of systems described under subparagraph (C) of section 3532(b)(2) that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense; and

(3) in the case of all other Federal information systems, may be delegated only to the Deputy Director for Management of the Office of Management and Budget

Sec. 3534. - Federal agency responsibilities

(a) The head of each agency shall -

(1) be responsible for -

(A) adequately ensuring the integrity, confidentiality, authenticity, availability, and nonrepudiation of information and information systems supporting agency operations and assets;

(B) developing and implementing information security policies, procedures, and control techniques sufficient to afford security protections commensurate with the risk and magnitude of the harm resulting from unauthorized disclosure, disruption, modification, or destruction of information collected or maintained by or for the agency; and

(C) ensuring that the agency's information security plan is practiced throughout the life cycle of each agency system;

(2) ensure that appropriate senior agency officials are responsible for -

(A) assessing the information security risks associated with the operations and assets for programs and systems over which such officials have control;

(B) determining the levels of information security appropriate to protect such operations and assets; and

(C) periodically testing and evaluating information security controls and techniques;

(3) delegate to the agency Chief Information Officer established under section 3506, or a comparable official in an agency not covered by such section, the authority to administer all functions under this subchapter including -

(A) designating a senior agency information security official who shall report to the Chief Information Officer or a comparable official;

(B) developing and maintaining an agencywide information security program as required under subsection (b);

(C) ensuring that the agency effectively implements and maintains information security policies, procedures, and control techniques;

(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

(E) assisting senior agency officials concerning responsibilities under paragraph (2);

(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

(5) ensure that the agency Chief Information Officer, in coordination with senior agency officials, periodically -

(A)

(i) evaluates the effectiveness of the agency information security program, including testing control techniques; and

(ii) implements appropriate remedial actions based on that evaluation; and

(B) reports to the agency head on -

(i) the results of such tests and evaluations; and

(ii) the progress of remedial actions.

(b)

- (1) Each agency shall develop and implement an agencywide information security program to provide information security for the operations and assets of the agency, including operations and assets provided or managed by another agency.
- (2) Each program under this subsection shall include -
- (A) periodic risk assessments that consider internal and external threats to -
 - (i) the integrity, confidentiality, and availability of systems; and
 - (ii) data supporting critical operations and assets;
 - (B) policies and procedures that -
 - (i) are based on the risk assessments required under subparagraph (A) that cost-effectively reduce information security risks to an acceptable level; and
 - (ii) ensure compliance with -
 - (I) the requirements of this subchapter;
 - (II) policies and procedures as may be prescribed by the Director; and
 - (III) any other applicable requirements;
 - (C) security awareness training to inform personnel of -
 - (i) information security risks associated with the activities of personnel; and
 - (ii) responsibilities of personnel in complying with agency policies and procedures designed to reduce such risks;
 - (D) periodic management testing and evaluation of the effectiveness of information security policies and procedures;
 - (E) a process for ensuring remedial action to address any significant deficiencies; and
 - (F) procedures for detecting, reporting, and responding to security incidents, including -
 - (i) mitigating risks associated with such incidents before substantial damage occurs;
 - (ii) notifying and consulting with law enforcement officials and other offices and authorities;
 - (iii) notifying and consulting with an office designated by the Administrator of General Services within the General Services Administration; and
 - (iv) notifying and consulting with an office designated by the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President for incidents involving systems described under subparagraphs (A) and (B) of section 3532(b)(2).
- (3) Each program under this subsection is subject to the approval of the Director and is required to be reviewed at least annually by agency program officials in consultation with the Chief Information Officer. In the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), the Director shall delegate approval authority under this paragraph to the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President.

(c)

- (1) Each agency shall examine the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to -
- (A) annual agency budgets;
 - (B) information resources management under subchapter I of this chapter;
 - (C) performance and results based management under the Clinger-Cohen Act of 1996 ([40](#) U.S.C. [1401](#) et seq.);
 - (D) program performance under sections [1105](#) and [1115](#) through [1119](#) of title [31](#), and sections [2801](#) through [2805](#) of title [39](#); and
 - (E) financial management under -

(i) chapter 9 of title 31, United States Code, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

(ii) the Federal Financial Management Improvement Act of 1996 (31 U.S.C. 3512 note) (and the amendments made by that Act); and

(iii) the internal controls conducted under section 3512 of title 31.

(2) Any significant deficiency in a policy, procedure, or practice identified under paragraph (1) shall be reported as a material weakness in reporting required under the applicable provision of law under paragraph (1).

(d)

(1) In addition to the requirements of subsection (c), each agency, in consultation with the Chief Information Officer, shall include as part of the performance plan required under section 1115 of title 31 a description of -

(A) the time periods; and

(B) the resources, including budget, staffing, and training, which are necessary to implement the program required under subsection (b)(1).

(2) The description under paragraph (1) shall be based on the risk assessment required under subsection (b)(2)(A)

Sec. 3535. - Annual independent evaluation

(a)

(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency.

(2) Each evaluation by an agency under this section shall include -

(A) testing of the effectiveness of information security control techniques for an appropriate subset of the agency's information systems; and

(B) an assessment (made on the basis of the results of the testing) of the compliance with -

(i) the requirements of this subchapter; and

(ii) related information security policies, procedures, standards, and guidelines.

(3) The Inspector General or the independent evaluator performing an evaluation under this section may use an audit, evaluation, or report relating to programs or practices of the applicable agency.

(b)

(1)

(A) Subject to subparagraph (B), for agencies with Inspectors General appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or any other law, the annual evaluation required under this section or, in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), an audit of the annual evaluation required under this section, shall be performed by the Inspector General or by an independent evaluator, as determined by the Inspector General of the agency.

(B) For systems described under subparagraphs (A) and (B) of section 3532(b)(2), the evaluation required under this section shall be performed only by an entity designated by the Secretary of Defense, the Director of Central Intelligence, or another agency head as designated by the President.

(2) For any agency to which paragraph (1) does not apply, the head of the agency shall contract with an independent evaluator to perform the evaluation.

(c) Each year, not later than the anniversary of the date of the enactment of this subchapter, the applicable agency head shall submit to the Director -

(1) the results of each evaluation required under this section, other than an evaluation of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

(2) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2).

(d)

(1) The Director shall submit to Congress each year a report summarizing the materials received from agencies pursuant to subsection (c) in that year.

(2) Evaluations and audits of evaluations of systems under the authority and control of the Director of Central Intelligence and evaluations and audits of evaluation of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available only to the appropriate oversight committees of Congress, in accordance with applicable laws.

(e) Agencies and evaluators shall take appropriate actions to ensure the protection of information, the disclosure of which may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws

Sec. 3536. - Expiration

This subchapter shall not be in effect after the date that is two years after the date on which this subchapter takes effect